

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

COLLEEN MARY GROBELNY and
ROBERT GROBELNY, her husband,

Plaintiffs,

v.

BAXTER HEALTH CARE
CORPORATION, THE AMERICAN
RED CROSS, JOHN DOES 1-5, ABC
CORPORATIONS 1-5 (said names being
fictitious)

Defendants.

Civil Action No. 05-cv-4645 (PGS)

ORDER

This matter comes before the Court on a motion for reconsideration by Defendants Baxter Health Care Corporation and The American Red Cross. Defendants wish the Court to reconsider its decision of August 9, 2007, denying Defendants' motion for summary judgment. After review, the Court finds that expert evidence is required to determine whether the warning at issue in this case would be sufficient to one having "the ordinary knowledge common to the prescribing physician." N.J.S.A. § 2A:58C-4; *see Campagna ex rel. Greco v. American Cyanamid Co.*, 337 N.J. Super. 530 (App. Div. 2001); *Curtis v. Besam Group*, No. 05-2807, 2007 WL 3232589, at *4 (D.N.J. Oct. 31, 2007).

Whereas the Court finds that the current motion is more akin to a motion in limine;

IT IS on this 7th day of April, 2008,

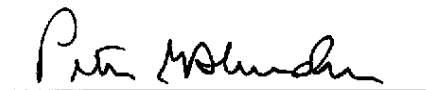
ORDERED that the motion for reconsideration is hereby denied; it is further

ORDERED that a hearing will be conducted on April 18, 2008, at 10 A.M., to determine

whether there is a genuine issue of material fact as to the adequacy of the warning; it is further

ORDERED that plaintiff must proffer its expert testimony at this hearing; it is further

ORDERED that, as this is Defendants' motion, pursuant to Federal Rule of Civil Procedure 26(b)(4)(C)(i), the Defendants must pay all reasonable costs of Plaintiff, including expert fees incurred in conjunction with this hearing.

A handwritten signature in black ink, appearing to read "Peter G. Sheridan", is written over a horizontal line.

April 7, 2008

PETER G. SHERIDAN, U.S.D.J.